

INFORMATION

Clarification of the Informed Consent Rule

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AN ARTICLE on informed consent that was published in the December, 1961 issue of CALIFORNIA MEDICINE stressed, among other things, the rule that had been laid down by the Kansas Supreme Court in the case of *Natanson v. Kline*. That court has now clarified that ruling in the following case.

Three physicians were recently exonerated of all responsibility in the death of a three-year-old boy who died during a cardiac catheterization procedure. In a lawsuit filed in Kansas by the parents of the child the parents claimed that they were not sufficiently advised of the risks of the procedure to enable them to give an informed consent. The plaintiffs' claim was based upon a ruling of the Kansas Supreme Court in the earlier case of *Natanson v. Kline*, 350 P. 2d 1093.

After administration of 500 milligrams of sodium pentothal, the performance of a cardiac catheterization began. The young patient awakened and started struggling and 100 milligrams of sodium pentothal was injected into the bloodstream through the catheter that had been placed in the heart. Within 20 seconds after this injection, the patient's heart rate slowed considerably, his blood pressure was not obtainable, his pulse was barely perceptible. He was given oxygen and cardiac massage was instituted, but normal rhythm could not be established and he was pronounced dead about four hours later. A summary of the facts leading up to the performance of the cardiac catheterization is as follows:

When the child was about three years of age, his mother, noticing blueness about his lips, took him to the family physician, R. L. Obourn, M.D., in Eureka, Kansas. Dr. Obourn recommended that the child be examined by a well-known pediatrician, F. L. Menehan, M.D., of Wichita. After examination, Dr. Menehan made a diagnosis of a possible congenital cardiac defect. As an aid to further diagnosis, he asked that the child be placed in a hospital where cardiac catheterization could be performed. In answer to a specific inquiry from the mother about the risk or danger involved in cardiac catheterization, Dr. Menehan advised that the team which would perform this procedure had done 100 of them without any bad results.

Later, after a family discussion, both the mother and father took the child to Dr. Menehan and C. T.

Hagan, M.D. Both these physicians explained to the parents that there was essentially no risk involved in cardiac catheterization and that the procedure was done on both grown-ups and children. The parents later testified that they recognized there was some danger in any operation and that there was some risk involved in this procedure. There was no evidence offered that there was any medical error in determining that the diagnostic procedure was proper or that the choice of anesthetic or amount administered was erroneous.

The court concluded that the parents were fully informed and there was insufficient evidence to establish a case of liability against any of the defendants. The following part of the opinion clarifies the rule concerning informed consent:

... "We said in the *Natanson* case at page 406 it is the duty of a doctor to make a reasonable disclosure to his patient of the nature and probable consequences of the suggested or recommended treatment, and to make a reasonable disclosure of the dangers within his knowledge which are incident or possible in the treatment he proposes to administer. *But this does not mean that a doctor is under an obligation to describe in detail all of the possible consequences of treatment. To make a complete disclosure of all facts, diagnoses and alternatives or possibilities which might occur to the doctor could so alarm the patient that it would, in fact, constitute bad medical practice.*

"Further, on pages 409-410, we said the duty of the physician to disclose, however, is limited to those disclosures which a reasonable medical practitioner would make under the same or similar circumstances. How the physician may best discharge his obligation to the patient in this difficult situation involves primarily a question of medical judgment. So long as the disclosure is sufficient to assure an informed consent, the physician's choice of plausible courses should not be called into question if it appears, all circumstances being considered, that the physician was motivated only by the patient's best therapeutic interests and he proceeded as competent medical men would have done in a similar situation.

"In view of the mentioned rules set forth in *Natanson v. Kline*, supra, we are of the opinion that under the evidence the three defendant doctors made a reasonable disclosure of the nature and consequences of the proposed treatment." (Italicizing of second sentence in first paragraph, ours.)

It is believed that the above opinion will be most helpful in clarifying what the courts mean when they speak of an informed consent.

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